

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

TONY ORLANDO MYLES,

Plaintiff,

v.

JESSICA RICKS, ET AL.,

Defendants.

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CIVIL ACTION NO. 5:22-CV-00052-RWS

ORDER

Before the Court is Plaintiff Tony Myles's civil lawsuit complaining of alleged deprivations of his constitutional rights under 42 U.S.C. § 1983. Docket No. 1. Plaintiff is an inmate of the Texas Department of Criminal Justice Correctional Institutions division proceeding *pro se*. The case was referred to United States Magistrate Judge Boone Baxter in accordance with 28 U.S.C. § 636. The Magistrate Judge issued a Report recommending that the above-captioned lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court and that the statute of limitations be suspended for a period of sixty (60) days from the entry of final judgment. Docket No. 10. No objections have been filed.

Plaintiff's lawsuit was severed from a pending case in the Eastern District of Texas, Beaumont Division after Plaintiff sought to add claims arising from an incident at the Telford Unit. Docket No. 10 at 1. After the Magistrate Judge reviewed the severed claims, the Court ordered Plaintiff to file an amended complaint "setting out a short and plain statement of his claims." *See id.* (citing Docket No. 7). Plaintiff received the Magistrate Judge's order on May 9, 2022, and has not complied or responded in any way. The Magistrate Judge recommended the case be dismissed for failure to prosecute, noting that the district court "may dismiss an action for failure of a litigant

to prosecute or to comply with” a court order and that “such dismissal may be done *sua sponte*.” *Id.* (citing *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988)); *see also* FED R. CIV. P. 41(b).

Plaintiff has not filed any objections to the Magistrate Judge’s Report. Because no objections have been received, Plaintiff is barred from *de novo* review by the District Judge of the Magistrate Judge’s proposed findings, conclusions and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).


The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law.”). Accordingly, it is

ORDERED that the Report of the Magistrate Judge (Docket No. 10) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-captioned action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. It is further

ORDERED that the statute of limitations is suspended for a period of **sixty (60) days** following the date of entry of final judgment.

So ORDERED and SIGNED this 23rd day of January, 2024.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE